

HUMAN SERVICES BOARD

INTRODUCTION

FINDINGS OF FACT

2. On October 5, 2009 (based on an application the petitioner filed on September 28, 2009) the Department granted the petitioner essential person benefits of \$435 a month. The benefit amount was based on the petitioner's only reported income from Social Security of \$694 a month (see *infra*).

3. In January 2010 the Department learned that the petitioner also had income from a VA pension \$628 a month. On January 27, 2010 the Department notified the petitioner that his essential person benefits would close effective March 1, 2010.

4. At the hearing in this matter, held by phone on March 5, 2010, the petitioner argued that it was unfair to base eligibility on gross income because his household expenses meet or exceed his income.

ORDER

The Department's decision is affirmed.

REASONS

The essential person (EP) program regulations provide that all the income of "assistance group" must be counted together. W.A.M. § 2782. The EP payment level is equal to the maximum SSI payment to a couple. W.A.M. § 2770. Currently, that amount is \$1,109.88. See Procedures Manual P-2740.

The regulations further provide that all but a standard \$20 "disregard" of the petitioner's Social Security and VA benefits must be counted in determining his EP eligibility. The only other exceptions and deductions in the regulations

apply to either earned income or the income of the disabled spouse, herself. See W.A.M. § 2786.

In this case there is no dispute that the Department correctly determined that the petitioner's net countable income (\$1,303) exceeds the maximum allowable in determining eligibility for EP benefits. Thus, the Board is bound to affirm the Department's decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 1000.4D.

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